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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,834	03/03/2004	Toru Homma	04329.3257	2527
22852	7590	04/02/2008		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER LIU, LIN	
			ART UNIT	PAPER NUMBER
			2145	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/790,834

Applicant(s)

HOMMA, TORU

Examiner

LIN LIU

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-8 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-8, and 10-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is responsive to communications filed on 12/20/2007.

Claims 1-2, 4-8, and 10-14 are pending and have been examined.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4-7, and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sim et al. (Publication no.: US 2002/0002035 A1)** in view of **Delvaux (Patent no.: US 6,775,305 B1)**.

With respect to **claim 1**, Sim teaches an electronic apparatus comprising:

a communication device that executes wireless communication with an external device (Sim: fig. 2, page 2, paragraph 31);

an input device (Sim: page 3, paragraph 41, noted the remote controller);

means for selecting one of a first communication mode and a second communication mode in accordance with an operation of the input device (Sim: page 3, paragraphs 38 and 41 and page 4, paragraph 48); and

means for, when the first communication mode is selected (Sim: page 3, paragraph 38), establishing one channel for transmitting content data from the communication device to the external device (Sim: page 3, paragraphs 35, 38

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and 44, noted the selection of the second decoder 15 to decode high speed data), and executing one-way communication to transmit content data compression-encoded by a first compression-encoding scheme, from the communication device to the external device via the one channel with a first quality (Sim: page 3, paragraph 35, noted that the second decoder 15 uses MAS-3507 decoder), and for, when the second communication mode is selected, establishing single independent channel between the communication device and the external device (Sim: page 3, paragraphs 35 and 38 noted the selection of the first decoder 12 to decode low speed data), executing two-way communication to transmit and receive content data compression-encoded by a second compression-encoding scheme between the communication device and the external device via the one independent channel with a second quality which is lower than the first quality (Sim: page 3, paragraphs 35 and 38 noted the selection of the first decoder 12 to decode low speed data), the second compression-encoding scheme requiring a smaller number of arithmetic operations compared to the first compression-encoding scheme (Sim: page 3, paragraphs 35 & 38).

However, Sim does not explicitly teach a method of establishing two independent channels for transmitting content data communication between the communication device and the external device.

In the same field of endeavor, Delvaux teaches a method of establishing a multi-channel independent asynchronous communication links (Delvaux: col. 8, lines 19-30.).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the method of establishing a multi-channel independent asynchronous communication links as taught by Delvaux in Sim's invention in order to offload and reduce the traffic of content data transmission to multi-channel communication links.

With respect to **claim 4**, Sim teaches the electronic apparatus according to claim 1, wherein the controlling means includes means for controlling communication between the communication device and the external device such that content data sampled with a first sampling frequency is transmitted from the communication device to the external device when the first communication mode is selected (Sim, page 3, paragraphs 35, 38, and 41), and content data sampled with a second sampling frequency, which is lower than the first sampling frequency, is transmitted and received between the communication device and the external device when the second communication mode is selected (Sim, page 3, paragraphs 35 and 38).

With respect to **claim 5**, Sim teaches the electronic apparatus according to claim 1, further comprising means for storing first parameter information indicative of a kind of compression-encoding to be used in the first communication mode (Sim, page 3, paragraph 35) and a value of a sampling frequency used in the compression-encoding (It is an inherent feature for any decoder/encoder to have a value associate with it in order to perform decoding/encoding function), and second parameter information indicative of a kind of compression-encoding to be used in the second communication mode

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(Sim, page 3, paragraph 35) and a value of a sampling frequency used in this compression-encoding (It is an inherent feature for any decoder/encoder to have a value associate with it in order to perform decoding/encoding function),

wherein the controlling means includes means for setting communication conditions for the one-way communication in the communication device and the external device in accordance with the first parameter information when the first communication mode is selected (Sim, page 3, paragraph 35), and setting communication conditions for the two-way communication in the communication device and the external device in accordance with the second parameter information when the second communication mode is selected (Sim, page 3, paragraph 35).

With respect to **claim 6**, Sim teaches the electronic apparatus according to claim 1, wherein the external device is a headset including a speaker and a microphone (Sim, page 3, paragraph 35, noted that headset 11 includes speaker and mic),

the electronic apparatus further comprises means for storing first parameter information indicative of communication conditions for transmitting audio data with the first quality (Sim, page 3, paragraph 35, noted that the second decoder 15 uses MAS-3507 decoder) and second parameter information indicative of communication conditions for transmitting audio data with the second quality (Sim, page 3, paragraph 35, noted that the first decoder 12 uses PCM decoder/encoder), and

the controlling means includes means for setting communication conditions for the one-way communication in the communication device and the external device in accordance with the first parameter information when the first communication mode is selected (Sim, page 3, paragraph 35), and setting communication conditions for the two-way communication in the communication device and the external device in accordance with the second parameter information when the second communication mode is selected (Sim, page 3, paragraph 35).

In regard to **claim 7**, the limitations of this claim are substantially the same as those in claim 1, but rather in a computer program stored in a computer readable medium form. Therefore the same rationale for rejecting claim 1 is used to reject claim 7. By this rationale **claim 7** is rejected.

In regard to **claims 10-12, and 14**, the limitations of these claims are substantially the same as those in claims 4-6, and 13, but rather in a computer program stored in a computer readable medium form. Therefore the same rationale for rejecting claims 4-6 and 13 is used to reject claims 10-12 and 14. By this rationale **claims 10-12 and 14** are rejected.

With respect to **claim 13**, Sim teaches the electronic apparatus according to claim 1, wherein the one channel is established using an asynchronous channel (Sim: page 3, paragraphs 41-42). However, Sim fails to teach that each of the first channel and second channel of the second communication mode is established using the asynchronous channel.

In the same field of endeavor, Delvaux teaches a method of establishing a multi-channel independent asynchronous communication links (Delvaux: col. 8, lines 19-30.). Same motivation used in claim 1 applies equally as well to claim 13.

4. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sim et al. (Publication no.: US 2002/0002035 A1)** in view of **Delvaux (Patent no.: US 6,775,305 B1)** and further in view of **Official Notice**.

With respect to **claim 2**, Sim teaches the electronic apparatus according to claim 1, further comprising:

a display device (Sim, page 3, paragraph 44); and

wherein the selecting means includes means for selecting the first communication mode when the first icon is selected by an operation of the input device (Sim, page 3, paragraph 41), and selecting the second communication mode when the an incoming call request is received (Sim, page 4, paragraphs 48 and 50).

means for displaying the title of a song (Sim, page 3, paragraph 44) and means for receiving a notice of incoming call request (Sim, page 4, paragraphs 48 and 50). The combined method of Sim-Delvaux fails to disclose a method of notifying the user of an incoming call request on the display. Office Notice is taken that a method of notifying a user of an incoming call on a display by prompting a notifying message is well known in the art. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to

incorporate the method of notifying the user of an incoming phone on a display with the advantage being that it provides a friendly interface in an not-disturbing way in notifying the user while the user is listening to the music.

In regard to **claim 8**, the limitations of this claim are substantially the same as those in claim 2. Therefore the same rationale for rejecting claim 2 is used to reject claim 8. By this rationale **claim 8** is rejected.

Response to Arguments

5. Applicant's arguments 1-2, 4-8, and 10-14 with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

6. In response to Applicant's traversal with regard to the Official Notice taken by the Examiner. The Applicant is reminded that the Applicant is entitled to traverse any/all Official Notice taken in this action according to MPEP §2144.03. However, MPEP §2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Alhert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of this assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed." Further note that 37 CFR §1.67(c)(3) states "Judicial notice means official notice." Thus, a traversal by the Applicant that is

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merely "a bald challenge, with nothing more", this has been given very little weight.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Liu whose telephone number is (571) 270-1447. The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The

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fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. L./
/Lin Liu/

Examiner, Art Unit 2145

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145